

VZCZCXRO3692  
RR RUEHAST  
DE RUEHTA #0146/01 0290912  
ZNR UUUUU ZZH  
R 290912Z JAN 08  
FM AMEMBASSY ASTANA  
TO RUEHC/SECSTATE WASHDC 1581  
RUEHAST/USOFFICE ALMATY 0166

UNCLAS SECTION 01 OF 16 ASTANA 000146

SIPDIS

SCA/CEN - O'MARA  
EB/IFD/OIA

SENSITIVE

SIPDIS

E.O. 12958: N/A

TAGS: [ETRD](#) [EFIN](#) [ECON](#) [EINV](#) [PREL](#) [OPIC](#) [KTDB](#) [USTR](#)

SUBJECT: 2007 INVESTMENT CLIMATE STATEMENT - KAZAKHSTAN

REF: A. 07 State 158802

11. The following information is provided in response to reftel request.

Openness to Foreign Investment

---

Kazakhstan has made significant progress toward creating a market economy since its independence in 1991. The European Union in 2000 and the U.S. Department of Commerce in March 2002 recognized the success of Kazakhstan's reforms by granting it market economy status. Kazakhstan also has attracted significant foreign investment since independence. By July 2007, foreign investors had invested a total of about \$58.3 billion in Kazakhstan, primarily in the oil and gas sector, during the country's fifteen years of independence. Following independence, the government created a favorable regime for oil and gas investments at the same time that it undertook other liberalizing economic measures and began an ambitious privatization program.

Despite continuously increasing investment into Kazakhstan's energy sector, concerns remain about a tendency on the part of the government to challenge contractual rights, to legislate preferences for domestic companies, and to create mechanisms for government intervention in foreign companies' operations, particularly procurement decisions. Together with vague and contradictory legal provisions that are often arbitrarily and inconsistently enforced, these negative tendencies feed an enduring perception that Kazakhstan is becoming less open to investment.

Four major pieces of existing legislation affect foreign investment. These are: 1) the 2003 law "On Investment"; 2) the 1997 law "On Government Procurement"; 3) the 2001 Tax Code; and 4) the 2003 Customs Code. These four laws provide for non-expropriation; currency convertibility; guarantees of stability in the legal regime; transparent government procurement; and incentives in certain priority sectors. However, inconsistent implementation of these laws and reforms at all levels of government remains the key obstacle to business in Kazakhstan.

Since 1997, there has been a growing trend to favor domestic investors over foreigners in most state contracts. Furthermore, amendments passed in 1999 to the Oil and Gas Law require mining and oil companies to use local goods and services. According to these "local content" regulations, subsurface users in Kazakhstan are obligated to purchase goods and services from Kazakhstan entities -- provided that the local goods meet minimum project standards -- and to give preference to the employment of local personnel. Prospective subsurface users are required to specify in their tenders the anticipated local content of their work, goods, and services. Since 2002, a designated government body must approve all tender documents, participate in tender committees, and approve all tender committee decisions, in order to ensure compliance. The 2005 "Production Sharing Agreements (PSA)" law, which applies primarily to Kazakhstan's offshore oil development projects, binds companies to similar local context provisions.

In December 2006, amendments to the Subsurface Law further tightened

the government's application of local content requirements, requiring companies to meet local content benchmarks annually, rather than on average over the lifetime of a project. More recently, an amendment signed in October 2007 allows the government to annul contracts in the extractive sector if they are deemed to be harmful to Kazakhstan's economic security or national interests. President Nazarbayev, however, said publicly that the amendment would not be used retroactively, but rather only with respect to new contracts. (Note: The amendment was not invoked during recent negotiations to restructure the Kashagan field consortium.)

These requirements are being challenged in connection with Kazakhstan's forthcoming WTO accession negotiations, as they appear to breach GATT and GATS rules and the Agreement on Trade Related Investment Measures. They also appear to contradict the 1994 U.S.-Kazakhstan Bilateral Investment Treaty, which states in Article II, paragraph 5, that "neither party shall impose performance requirements...which specify that goods be purchased locally..."

In January 2003 President Nazarbayev signed a new law "On Investments" that superseded and consolidated past legislation governing foreign investment. The law establishes a single investment regime for domestic and foreign investors, and provides, *inter alia*, guarantees of national treatment and non-discrimination for foreign investors. It guarantees the stability of existing contracts, with the qualification that new ones will be subject to amendments in domestic legislation, certain provisions of international treaties, and domestic laws dealing with "national and ecological security, health and ethics."

The 2003 law provides for dispute settlement through negotiation, Kazakhstan's judicial process, and international arbitration. However, the law narrows the definition of investment disputes and lacks clear mechanisms for access to international arbitration. U.S. investors should note that the U.S.-Kazakhstan Bilateral Investment Treaty, as well as the New York Convention, protects U.S. investor access to international arbitration. Additionally, the RK

ASTANA 00000146 002 OF 016

Constitution, as well as the 2003 law "On Investments," specifies that ratified international agreements have precedence over domestic law. The May 2005 Law on International Agreements appeared to contradict this legal hierarchy, setting precedence of domestic law of the RK over its international agreements. However, Kazakhstan amended this law in February 2007, eliminating this contradiction.. Finally, in December 2004 Kazakhstan adopted a law "On International Commercial Arbitration" (see "Dispute Settlement" for full discussion).

The 2003 law contains investment incentives and preferences based on government-determined sectoral priorities, and provides for investment tax preferences, customs duties exemptions, and in-kind grants. The law also provides exemptions for customs duties on imported equipment/components if Kazakhstan-produced stocks are not available or do not meet international standards.

Amendments since made to the 2003 law, which came into force in May 2005, eliminate five-year corporate income tax exemptions and replace them with a modified set of ten-year exemptions. Customs duties exemptions are limited to equipment that is destined for use in production processes exclusively in Kazakhstan.

In 2001, Kazakhstan adopted transfer-pricing legislation, which gives tax and customs officials the authority to monitor export-import transactions in order to prevent the understatement of earnings through manipulation of export prices. Foreign investors are concerned that the government specifically rejected the use of OECD standards for determining a proper market price under the transfer-pricing legislation, creating instead a methodology that fails to fully account for all cost and quality differences. The government in effect holds that transfer-pricing can take place even in transactions between unrelated parties, because the practice is defined by transaction prices that differ from market prices by a certain percentage. Kazakhstan's deviation from international methodology on this complicates the ability of firms to obtain relief under treaties on avoidance of double taxation from their home countries. This remains a contentious issue with investors.

Kazakhstani law holds that no sectors of the economy are fully closed to investors, although there are sectoral limitations, specifically a 20% ceiling on foreign ownership of media outlets and 49% restriction on foreign ownership in the telecommunications sector. However, a December 2005 law lifted the restrictions on the

participation of foreign capital in the banking sector. A ban on foreign bank and insurance company branches remains in force. Finally, the 2005 Production Sharing Agreement law mandates that the state oil company be a minimum 50% participant in new offshore projects. In practice, investors may find that a joint venture with a well-connected local partner is advantageous in navigating the legal and political complexities of operating in Kazakhstan. Insurance supervision and licensing powers are exercised by the Financial Supervision Agency. February 2006 amendments to the Law on Insurance have eliminated participation restrictions for foreign legal entities in insurance and re-insurance organizations in Kazakhstan.

Restrictions also exist on foreign ownership of land in Kazakhstan. See below (A.6 "Right to Private Ownership and Establishment"). The government plays a large role in overseeing foreign investment. Government officials, sometimes at the highest levels, screen major foreign investment proposals.

In 2004, the government adopted amendments to the law governing oil and gas exploration, assigning to the state a right of first refusal on the purchase of shares in Production Sharing Agreements (PSAs) in the extractive industries. The law as written applies to pre-existing as well as future contracts and thus, in the government's view, supersedes any pre-emptive rights consortium partners might have negotiated in the original contracts.

The "pre-emption law," which has its origins in the government's attempt to purchase British Gas (BG)'s stake in the Kashagan oil field, is a disturbing development in the area of contract sanctity. Although the government has not yet tested the law in practice, its apparent willingness to override contractual arrangements through fiat is discouraging. In 2005, the Kazakhstani government broadened its claim of priority purchase rights to include shares of companies that have invested in the oil and gas sector. The same amendments allow the government to block the sale of oil and gas assets in the interest of "national security." Additional amendments to the Subsurface Law signed in December 2006 also assign the government the right to exclude companies from participating in oil and gas investment program tenders if it is similarly considered in the interests of "national security." Tax experts consider Kazakhstan's tax laws to be among the most comprehensive in the former Soviet Union. The latest Tax Code, which entered into effect on January 1, 2002, applies taxes universally and allows only a limited set of exemptions. The code applies an international model of taxation, based on the principles of equity, economic neutrality and simplicity. This code is an improvement over its predecessor and a step forward in establishing a transparent and effective tax system. Starting January 1, 2007, the value-added tax (VAT) will be set at 14%, and the personal income tax rate increasing to 20%. Furthermore, employees' earnings are subject to a regressive "social

ASTANA 00000146 003 OF 016

tax," ranging from 7% to 20% for Kazakhstani employees and 5% to 11% for "foreign specialists." The corporate tax rate is flat at 30%. In addition to all taxes levied on Kazakhstani entities, non-residents must pay 15% of net income or 20% of commercial revenues. However, a non-resident might have a right to recuperate this money, if a relevant bilateral tax treaty exists and covers the respective tax provision. The Tax Code contains a description of this procedure. Certainly, this requirement creates unnecessary complications and impedes business activity. Foreign firms operating in Kazakhstan frequently report harassment by the Financial Police via unannounced inspections and other methods. In 1998, the government limited the number of visits that can be made by government bodies to small businesses in the course of a year, but tax inspections were excluded from this limitation. A "moratorium" on inspections of small and medium firms decreed in late 2002 has never been fully observed; it resulted in at 50% decrease in the number of audits, but, reportedly, no reduction in overall penalties assessed. The 2002 Tax Code provides a basis for improvement because it limits the powers of tax authorities and defines the rights of taxpayers more clearly.

It is important to note that in practice the application of tax laws has been uneven, and in some cases blatantly unfair. This has been particularly true in cases where a company is involved in another, unrelated dispute with the authorities. Foreign investors have complained of a lack of evenhandedness in the authorities' application of other laws or regulations as well. In some cases, the

investors have interpreted regulatory pressure as an effort to extract bribes.

Investors should not assume that agreeing to a settlement with tax authorities following an investigation or civil case will prevent the pursuit of charges under criminal provisions. At times the authorities have used criminal charges in civil disputes as a pressure tactic.

By law and in practice, foreign investors are allowed to participate in all privatization projects. There appears to be no discrimination against foreign investors after an investment is made. However, many foreign companies cite the need to protect their investments from a near-constant barrage of decrees and legislative changes, most of which do not "grandfather" existing investments. In addition to arbitrary tax inspections, foreign investors also complain of problems with closure on contracts, delays and irregular practices in licensing, land fees, etc. Some foreign firms have expressed concern that government organizations fail to live up to their side of the contract, particularly regarding payment. This often prevents the foreign partner from moving ahead with its investment program. When this occurs, the investor is exposed to government charges of non-performance and the real possibility that the government will cancel the contract.

Foreign workers are required to have a work permit to work legally in Kazakhstan. Obtaining these work permits can be difficult and expensive. The government cites the need to boost local employment by limiting the issuance of work permits to foreigners. U.S. companies should consult legal firms for assistance (see A.5 for details) in obtaining work permits. The work permits quota system is based on the 1998 Law on Employment of the Population. Under this system, the government limits the number of work permits available to foreigners, based on the area of specialization and geographic region. Since 2001, the annual number of work permits has been subject to a government-established quota. In January 2003 the government issued a decree (no. 55) which sets forth new procedures for the annual determination of this quota. Local authorities submit estimates of the required number of foreign work permits for the upcoming year to the Ministry of Labor and Social Protection. The Ministry then establishes the quota and issues permits based upon a proven lack of qualified Kazakhstani citizens to fill the positions in question. In 2003 the government set the work-permit quota at 14% of the active labor force. The quota has steadily increased: in 2005, 0.32%; in 2006 0.55%, and in 2007 0.8%. The quota assumes an active labor force of 8 million people.

#### Conversion and Transfer Policies

---

There are minimal restrictions on converting or transferring funds associated with an investment into a freely usable currency at a legal market-clearing rate.

In 1996, Kazakhstan adopted Article 8 of the IMF Articles of Agreement, which stipulates that current account transactions, such as currency conversions or the repatriation of investment profits, will not be restricted. In 1999, the Government and National Bank of Kazakhstan announced that the national currency would be allowed to float freely at market rates, thus abolishing the previous managed exchange rate system.

No distinction is made between residents and non-residents when opening bank accounts. There are no restrictions whereby different types of bank accounts are required for investment or import/export activities. For non-residents, money transfers in currency associated with foreign investments, whether inside or outside of the country, can take place without restriction. The National Bank

ASTANA 00000146 004 OF 016

permits non-residents to pay wages in foreign currency. Foreign investors may convert and repatriate tenge earnings made inside Kazakhstan.

The National Bank has established procedures and licensing arrangements to cover bank payments and transfers relating to capital movements. Inward capital flows are basically unrestricted. However, a resident company in which there is foreign investment exceeding \$100,000 must register the transaction for statistical purposes. There are restrictions on capital movements when a non-resident sells or disposes of an interest in a resident company to another resident company. These are dealt with under the licensing arrangements of the National Bank.

The procedure for licensing foreign currency transactions related to capital movements is governed by Regulations Number 129 and 130 of the Procedure for Licensing Activities Related to the Use of Foreign Currency of April 24, 1997.

In June 2005 the President signed the Law on Currency Regulation and Currency Control. This law lifted restrictions on money transfers: both residents and non-residents are allowed to take up to \$10,000 in cash out of the country without documentation of the money's origin. However, the transfer of cash amounts exceeding \$3,000 must be declared; the transfer of amounts exceeding \$10,000 must be accompanied by the certification of the National Bank.

The following types of capital movements from residents to non-residents are subject to licensing:

--investments of residents in the business of non-residents abroad. (The professional activity of authorized banks on the securities market -- e.g., broker and dealer activity with state securities of non-residents -- is exempted.);

--transfers from residents to non-residents of property, including real estate transactions; and

--the repayment of loans extended by residents to non-residents for a period of more than 180 days. (Obtaining licenses is sometimes very slow.)

The Customs Committee and the National Bank require an "Import [or] export transaction passport," ostensibly for the purpose of currency control. The document, which re-states information from other documents, complicates import and export processing. There is a real question whether the law is effective for its stated purpose - to ensure that the proceeds from export sales are returned to Kazakhstan, and to prevent money laundering and fraudulent over-invoicing of imports.

In July 2006, Kazakhstan adopted an amendment to its Customs Code, requiring submission of export declaration forms of country of origin for bringing goods into Kazakhstan. This resulted in an unintentional virtual shutdown for imports from many countries, particularly from the United States. The July amendment was repealed in November, ending the problem.

The U.S. Embassy is not aware of any concerns with regard to remittance policies or availability of foreign exchange for remittance of profits.

In 2001, the government announced an amnesty for all Kazakhstani citizens repatriating cash or transferring money during a 30-day period. The legalized money was not taxed and became available to its owners at the end of the amnesty period. Kazakhstani repatriated \$480 million under this amnesty, of which almost 90% was brought to banks in the form of cash. Another amnesty, which concluded on August 1, 2007, resulted in legalization of nearly \$7 billion in property.

Based on rules adopted in late 2005 relating to the control of currency turnover and capital flows, the National Bank regularly monitors currency operations of selected non-residents. This procedure primarily affects the following sectors: the oil and gas industry, construction, mining, as well as companies providing architectural, engineering and industrial design services. According to the National Bank, this monitoring will furnish the National Bank with better statistical data on the balance of payments and external debt.

#### Expropriation and Compensation

The Investment Law of 2003 represents a step back from the clarity of the 1994 law with regard to expropriation and compensation. The 2003 law allows nationalization by the state in cases "as provided in legislative acts of the Republic of Kazakhstan." Unlike the 1994 law, it does not provide clear grounds for expropriation. Similarly, the 1994 law required "prompt, adequate and effective" compensation at fair market value, with interest. The new law differentiates between nationalization and requisition, providing full indemnification of the investor in the case of the former, but only payment of market value in the case of the latter. Bilateral investment treaties (BITs) between Kazakhstan and other countries, including the U.S., also refer to compensation in the event of expropriation.

There has been one case of legal expropriation of a foreign investor's property for public purpose. The investor ultimately submitted the case for international arbitration. In May 2006, after lengthy delays and negotiations, the government paid the amount

awarded by the arbiter.

Some foreign investors have encountered serious problems short of expropriation. In one instance, in 1996, three foreign companies were forced to relocate their offices under pressure from the government. In 1997, investors, after reviving an important mine, found they could not obtain export licenses for their ore, although the right to export was written into their contract. The same year another investor alleged forgery and fraud by government officials, claiming its employees had been physically threatened in a management dispute at its ferro-alloy venture in northern Kazakhstan.

The Embassy is aware of one case, in 1992, of government action tantamount to expropriation, when a U.S. company was deprived of its rights to explore and develop an oil deposit in Atyrau Oblast. In 1999, the Stockholm Arbitral Court found that the government's action was tantamount to expropriation. After the U.S. Embassy raised the case with the government, it paid in full the amount of compensation called for in the arbitral award.

#### Dispute Settlement

---

There have been a number of investment disputes involving foreign companies in the past several years. While the disputes have arisen from unrelated, independent circumstances, many are linked to alleged breaches of contract or non-payment on the part of Kazakhstani state entities. Some disputes relate to differing interpretations of joint-venture agreement and production sharing agreement (PSA) contracts; one questions the legality of the government's use of ex-post facto regulations governing value added taxes. The disputes involve, in some instances, hundreds of millions of dollars. A recurring theme remains the unpredictability of actions taken by tax authorities and other regulating agencies. Kazakhstan is still in the process of building the institutional capabilities of its court system. Until this is complete, the performance of courts in the country will be less than optimal. Problems also arise in enforcing judgments. Given a relative lack of judicial independence, there is ample opportunity for interference in judicial cases.

General commercial law principles are established in Kazakhstan's Civil Code.

The 2003 law "On Investments" defines an investment dispute as "a dispute ensuing from the contractual obligations between investors and state bodies in connection with investment activities of the investor." It states that such disputes can be settled by negotiation, in Kazakhstani courts, or through international arbitration. According to the law, disputes not falling within the above-noted category "shall be resolved in accordance with the laws of the Republic of Kazakhstan." While some investors find this legislation problematic since it does not address disputes between private entities, others believe that Kazakhstan's Civil Code and Civil Procedure Code provide private parties with recourse to foreign and/or third party courts.

Additionally, in December 2004, Kazakhstan adopted a law on international arbitration. The law appears to give broad authority for judicial review of arbitral awards in Kazakhstan. An early test case yielded decidedly mixed results. In 2005, a U.S. company became embroiled in a dispute over payment for the sale of its shares in a joint venture to a group of Kazakhstani companies. The London Court of International Arbitration (LCIA) issued a preliminary ruling ordering that the shares be frozen pending its final decision. The acting Kazakhstani court, however, ignored the LCIA's ruling, and proceeded with its own hearings. The case was ultimately decided by the Supreme Court of Kazakhstan in the U.S. company's favor. In January 2006, however, the Astana City Court relied on an international convention loophole to decline the LCIA's award of legal costs to the U.S. firm on the grounds that doing so would be detrimental to "public order" in Kazakhstan. In May 2006, that decision was overturned, and the legal costs were awarded.

Kazakhstan has been a member of the International Center for the Settlement of Investment Disputes (ICSID) since December 2001. Any international arbitral award rendered by the International Center for the Settlement of Investment Disputes (ICSID), any tribunal applying the United Nations Commission on International Trade Law Arbitration rules, the Stockholm Chamber of Commerce, the London Court of International Arbitration, or the Arbitration Commission at the Kazakhstan Chamber of Commerce and Industry

should, by law, be enforced in Kazakhstan. The U.S.-Kazakhstan Bilateral Investment Treaty can serve to buttress the law "On Investment" in this area. Kazakhstan ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1995.

Creditor rights are set forth clearly under the current law on bankruptcy. However, the 1997 bankruptcy legislation is hindered by its complexity and numerous subsequent amendments, resulting in considerable misapplication in practice. The Committee on Work with Insolvent Debtors, operating under the umbrella of the Ministry of Finance, is Kazakhstan's official bankruptcy agency.

The Law "On Bankruptcy" approved in 1997 was amended in May 2007.

ASTANA 00000146 006 OF 016

It contains a detailed list of creditors' rights and prescribes a mechanism for their enforcement. Monetary judgments are normally made in domestic currency.

In general, the Government of Kazakhstan has a mixed record of addressing investment disputes. Foreign investors have often had to endure protracted negotiations. Most investors prefer to handle investment disputes privately, rather than make their cases public.

In addition, the law "On Investments" restricts recourse to international arbitration and places more reliance on the Kazakhstani judicial system for dispute resolution. The U.S. Embassy advocates on behalf of U.S. firms with investment disputes.

#### Performance Requirements and Incentives

---

The Investment Committee under the Ministry of Industry and Trade is responsible for monitoring the fulfillment of obligations undertaken by investors. If the committee determines that a company has not complied with its financial or other contractual obligations, the government may revoke the operating license of the company.

With the exception of investments in oil production or mining, rules on local content and local sources of financing vary from contract to contract. Typically, an investor's obligations might include an obligation to train local specialists and contribute to the social development of the respective regions.

Technology transfers frequently occur and sometimes are written into contracts, but are not explicitly required for foreign investment. The Investment Law of 2003 provides tax preferences, customs duties exemptions, and in-kind grants as incentives for investment in government-determined priority sectors. To obtain the preferences, the investor enters into a contract with the Investment Committee. Under the law, the government may rescind such incentives, and collect back payments on duties, etc. including fines, if the investor fails to fulfill contractual obligations. The early 2006 amendments to the Investment Law eased compliance and audit requirements for firms wishing to qualify for the preferences. The law provides the same preferences for domestic and foreign investors. Preferences are, however, determined on a case-by-case basis. The Ministry of Industry and Trade reported that in 2007 it signed 76 contracts for a total of about \$1.65 billion, in which such preferences were extended. Roughly a quarter of these investments had foreign involvement.

The preferences system echoes the government's policy of diversifying the economy away from the extractive sector and largely focuses on selected clusters. The overall list contains 245 types of activities grouped into 36 categories. The system applies to new enterprises as well as to existing enterprises making new investments; the duration of the tax preferences increases with the size of such investments.

In 2006-2007, the government created four large state-owned holding companies; Samruk, Kazyna, KazAgro, and Samgau. The Samruk State Holding Company, modeled on Singapore's Temasek, manages the state's shares in a growing number of large enterprises. The Kazyna Sustainable Development Fund oversees the government's development institutions aiming to stimulate the country's non-extractive sector and diversify the economy. KazAgro manages the state's agricultural holdings. Samgau, the newest holding, is charged with stimulating the development of domestic know-how in the high-tech sector.

In 2007, the government also announced formation of Social Entrepreneurial Corporations (SECs). Charged with managing regional government's holdings, SECs are meant to serve as a link between business and regional governments. There are no known cases in which

U.S. or other foreign firms have been denied participation in government-financed or subsidized research and development programs on a national basis. The Kazakhstani government has recently taken a strong interest in dedicating state resources to the support of research and development. How such projects will be administered in practice remains to be seen.

The government has liberalized its trade policies and has passed legislation to begin bringing its legal and trade regimes into conformity with World Trade Organization (WTO) standards. Kazakhstan submitted its Memorandum on the Foreign Trade Regime (MFTR) in 1996 and the first round of consultations on WTO accession took place in 1997. Kazakhstan has made significant progress in implementing a legal framework necessary for accession and signed bilateral protocols on market access for goods and services with several of its major trading partners. The Kazakhstani government is hoping to complete WTO accession negotiations by the end of 2008.

Kazakhstan is also a member of the Eurasian Economic Community (EEC), along with Russia, Kyrgyzstan, Belarus, Tajikistan, and Uzbekistan. Armenia, Moldova and Ukraine currently have observer status. In 2006, Kazakhstan, Russia, and Belarus announced the formation of a trilateral customs union. There are plans to eventually expand it to include other EEC countries. The union aims to bring about coordinated customs procedures and a high degree of uniformity in its members' external tariffs. The government's working assumption appears to be that the country will enter the WTO before the customs union will enter into force.

ASTANA 00000146 007 OF 016

Kazakhstan permits the importation of goods from EEC partners and certain developing or less-developed countries either free of duty, or at a reduced rate. There are no special requirements for engaging in trade-related activities. In keeping with internationally accepted practices, registration as an entrepreneur, legal entity, or branch/representation office is required.

#### Right to Private Ownership and Establishment

---

Foreign and domestic private entities have the right to establish and own business enterprises and to engage in all forms of remunerative activity. Private entities can freely buy and sell interests in business enterprises. However, state-owned enterprises do sometimes enjoy better access to markets, credits, and licenses than private entities.

Kazakhstan's constitution provides that land and other natural resources may be owned or leased by persons who are Kazakhstani citizens according to conditions established by law. The 2003 Land Code allows citizens of Kazakhstan to own agricultural land and urban land with commercial and non-commercial buildings and complexes, including dwellings and land used for servicing these buildings. Under the 2003 Land Code, only Kazakhstani citizens (natural and legalized) and Kazakhstani companies may own land. The Land Law does not allow private ownership for the following types of land:

- land used for national defense and national security purposes;
- specially protected natural territories, resorts, recreational land and territories of a historical and/or cultural significance;
- forests, water reservoirs (lakes, rivers, canals, etc.),
- glaciers, swamps, etc.;
- public areas (urban or rural settlements);
- main railways and public roads;

Short-term land leases may last for up to five years. The maximum period for long-term land leases are 49 years. Foreigners may rent agricultural land for up to 10 years. Foreigners may also own agricultural land through either a Kazakhstani-registered joint venture or a full subsidiary.

#### Protection of Property Rights

---

Secured interests in property (fixed and non-fixed) are recognized under the Civil Code and the 2003 Land Code. Mortgage lending has grown dramatically in the past several years. A credit bureau system does exist, but is in very early stages of development. The National Bank has created a national mortgage agency, which issues bonds secured by mortgages purchased from banks. All property and lease rights for real estate must be registered with special government-owned Real Estate Centers, which exist in cities and

rural district centers.

In principle, Kazakhstan's Civil Code protects U.S. intellectual property. In addition, the U.S.-Kazakhstan Trade Agreement, which came into force in 1993, obliges Kazakhstan to protect intellectual property rights (IPR). In 2004, Kazakhstan ratified the 1997 World Intellectual Property Organization (WIPO) Copyright Treaty and the WIPO Performances and Phonographs Treaty, and amended the Copyright Law to affirmatively protect pre-existing works and sound recordings. In 2005, Kazakhstan amended its Criminal and Civil Codes to make IPR crimes easier to prosecute and to toughen penalties for violators. The 2005 amendments played a significant role in USTR's 2006 decision to remove Kazakhstan from the Special 301 Watch list. While Kazakhstan has demonstrated a commitment to improving its IPR regime, substantial weaknesses, particularly in the area of civil dispute resolution, still remain.

**Patents and trademarks:** Patent protection is available for inventions, industrial designs and prototypes. Patents for inventions are available with respect to processes and products that are novel and have industrial applications. However, patent protection for certain types of products and processes -- such as layout designs and plant variety -- is not yet available. The National Institute of Intellectual Property performs formal examination of patent applications.

Patents for inventions are granted for a period of 20 years; patents for industrial designs are granted on a preliminary basis for five years. This period may be extended for an additional 10 years if the preliminary patent is converted to a patent. Prototypes are granted a five-year initial period of protection, with the possibility of an additional three-year extension. Unsuccessful applicants have the right to appeal decisions of the National Institute of Intellectual Property and the Committee for Intellectual Property Rights.

Kazakhstan is a member of the Moscow-based Eurasian Patent Bureau and the Munich-based European Patent Bureau.

Trademark violation is a crime. Enforcement has historically been questionable, but U.S. companies are generally confident that their trademarks are protected in Kazakhstan. Still, imported counterfeit goods can commonly be found at local markets. There are marked disparities in fees charged to domestic patent and trademark applicants, as compared to foreign applicants. Applications for trademark, service mark and appellations of origin protection should

ASTANA 00000146 008 OF 016

be filed with the National Patent Office and approved by the Committee for Intellectual Property Rights. Trademarks and service marks are afforded protection for a period of 10 years from the date of filing.

**Copyrights:** The Law on Copyrights and Related Rights was enacted in 1996. The law is largely in conformity with the requirements of the WTO TRIPS Agreement and the Berne Convention.

In late 2006, the government stated its plans to provide customs officials with ex officio authority to seize counterfeit products at the border. However, appropriate legislation has not been passed. Complicating the issue is the government's concern that granting ex officio powers may exacerbate corruption at customs checkpoints. Amendments to the Administrative, Criminal and Civil Procedural Codes have been adopted to bolster IPR enforcement capabilities. IPR enforcement measures, while still somewhat sporadic, are increasingly robust. Prosecutions, under both the Criminal and Administrative Codes, have led to a steady legitimization of the domestic trade in copyrighted material. Progress in IPR protection through civil courts is less pronounced as the judicial system develops the expertise necessary to resolve the more complex civil disputes.

Illegal software development and manufacture generally is not conducted in Kazakhstan; Russia and Ukraine are believed to be the major sources of bootleg software to the local market.

Kazakhstan ratified the Berne Convention for the Protection of Literary and Artistic Works in 1998 and the Geneva Phonograms Convention in 2000.

#### Transparency of Regulatory System

---

Transparency in the application of laws remains a major problem in Kazakhstan and an obstacle to expanded trade and investment. Foreign investors complain of changing standards and of corruption. While foreign participation is generally welcomed, some foreign investors

point out that the government is not always even-handed and sometimes reneges on its commitments. Although the Investment Committee of the Ministry of Industry and Trade was established to facilitate foreign investment, it has had limited success in addressing the concerns of foreign investors.

Opportunities for public comment on proposed laws and regulations are sporadic and generally limited. Often, contradictory norms hinder the functioning of the legal system. While Kazakhstan has recently defined more clearly which laws take precedence in the event of a contradiction, it has become clear that stability clauses granted investors under previous versions of the Foreign Investment Law or other legislation may not necessarily protect investors from changes in the legal and tax regulatory regime. The 2003 Investment Law holds that contracts signed subsequent to its enactment may be subject to amendments in domestic legislation and international treaty provisions that change "the procedure and conditions of the import, manufacture, and sale of goods subject to excise duties. As an additional complication, oblast authorities may create additional bureaucratic encumbrances, especially in the licensing and issuance of permits..

Kazakhstan, by law, will provide compensation for violations of contracts that were properly entered into and guaranteed by the government. Where the government has merely "approved" or "confirmed" a foreign contract, Kazakhstan's responsibility is limited to performing administrative acts necessary to facilitate the subject investment activity (acts "concerning the issuance of a license, granting of a land plot, mining allotment, etc.").

Kazakhstan's institutional governance is weak , further adding to the problems of transparency in commercial transactions. Senior government officials have a large say in minor and major transactions, and decisions are often made behind closed doors.

A 1995 Licensing Law established the legal framework for licensing activities in Kazakhstan. It requires the relevant agency to issue a license within one month of a company's submitting all required documents. The law was further amended in 1998, 2005, and January 2007. The 2007 amendments simplified procedural requirements for issuing licenses, reduced the number of licensed activities from 426 to 100 and introduced a mechanism to help prevent the extension of this list by other legal acts. However, licensing remains a problematic area for business, particularly for small- and medium-sized enterprises.

#### Efficient Capital Markets and Portfolio Investment

---

Kazakhstan's efforts to create a sound financial system and a stable macroeconomic framework have been notable among former Soviet republics. Much progress has been made in creating and implementing an adequate legal framework. In comparison with other parts of the economy, reform of the financial system has been deeper and more effective. The financial system has started to mediate financial resource flows and direct them to the most promising parts of the economy. Official policy is clearly supportive of credit allocation on market terms and the further development of legal, regulatory and accounting systems that are consistent with international norms.

ASTANA 00000146 009 OF 016

The National Bank has demonstrated a willingness to pursue monetary tightening in response to inflationary pressures. In 2006, it raised the refinancing rate twice as well as toughened reserve requirements for second-tier banks. Capital inflows and commodity exports have enabled the National Bank to accumulate foreign exchange reserves, and at the same time to lower interest rates and maintain inflation in the single-digit range.

As of the middle of December 2007, the net gold and hard currency reserves of the National Bank stood at \$18.1 billion; the total gold and hard currency reserves of Kazakhstan, including the National Bank reserves and reserves accumulated in the National Fund, reached \$39 billion. The National Bank has pursued market-based policies that have contributed to financial sector development and to exchange rate stability. In 1999 the National Bank created a deposit insurance system in order to attract the nearly \$1 billion in cash it estimated people were hoarding at home. Since then, private deposits have grown thirty nine-fold, from less than \$300 million in November 1999, to \$11.87 billion in November 2007.

Most domestic borrowers receive credit from Kazakhstani banks. However, foreign investors find the margins taken by local banks and

the collateral required for credit to be very onerous. It is usually cheaper and simpler for them to use retained earnings or borrow from their home country. The Kazakhstani Stock Exchange is struggling to gain momentum and, as such, not yet a realistic source of funds (see below). Since 1998, Kazakhstani banks have placed Eurobonds on international markets and obtained syndicated loans, the proceeds of which have been used to support domestic lending. Leading Kazakhstani banks have been able to obtain reasonably good ratings from international credit assessment agencies. The National Bank and the Financial Supervision Agency (FSA) supervise the banking system and have overseen a steady consolidation and strengthening of it.

The global liquidity crunch, which hit in late summer 2007, presented a substantial challenge to the Kazakhstani banking system, which had come to rely heavily on external borrowing over the preceding five-year period. Kazakhstani banks had been directing much of the borrowed funds into the country's construction and real estate sectors, particularly in the form both of construction financing and for mortgages for new housing in Astana and Almaty. The sudden global liquidity dry-up abruptly left some leading Kazakhstani banks unable to continue their aggressive external borrowing, forcing them to curtail their domestic lending activity. While policymakers widely saw this development as a healthy correction in view of the preceding liquidity glut, the National Bank of Kazakhstan and the government introduced measures in late 2007 to provide liquidity to the banking system and inject capital in the cooling construction sector.

Since 1999, a market for debt securities has been rapidly developing in Kazakhstan. Several dozen bank and non-bank corporations - large and small - have issued bills, notes and bonds with maturities ranging from three months to seven years. Earlier issues have matured and been redeemed; so far, there have been no defaults.

Rates for borrowers have declined on average from approximately 16% in September 1999 to approximately 9% in 2006. Maturities have increased from 1.5 years to up to 10 years during the same period. Kazakhstan's pension system reform has boosted the bond market by creating a pool of capital. The market for fixed-income securities has grown from \$74,000 in September 1999 to over \$14.7 billion in October 2007.

In 2007, the yield rate on middle-term government notes was 6.35%. Longer-term government notes (with maturities up to 10 years) were offered at 7.0%.

The Kazakhstani Stock Exchange (KSE) has been in operation since 1997. As of December 2007, there were 69 listed companies with 31 "A-listed" stock issues; 38 companies with "B-listed" stock issues; and 5 non-listed issuers. There are also 62 "A-listed" and 26 "B-listed" corporate bond issues. Inadequate financial records prevent many other companies from being put on the exchange. Moreover, company managers fear diluting control of their enterprises by selling more shares.

As of October 1, 2007, total capitalization of the KSE was \$71.95 billion, or 70.7% of GDP. Though there has been a slight decline of capitalization over the second half of 2007, a continued annual growth in both the absolute value of total capitalization and capitalization relative to GDP has occurred for the last three years.

Trading on the KSE is overwhelmingly dominated by block trades, liquidity is low, and the spreads are extremely wide. In 2006, several large Kazakhstani companies issued initial public offerings on the London Stock Exchange (LSE). In compliance with a 2006 law requiring any foreign IPO by a Kazakhstani company to be accompanied by a domestic issuance, these companies also offered shares on the KSE. However, despite these offerings and the Kazakhstani pension funds' (see below) tentative moves to invest in KSE-traded shares, the exchange remains in a very early stage of development. Due largely to Kazakhstani companies' recalcitrance to dilute ownership and provide extensive disclosure, the Kazakhstani debt market is substantially more developed. The plans for the "Almaty Financial Center" (see below) aim to spearhead the development of Kazakhstan's

ASTANA 00000146 010 OF 016

financial markets. In 2007, the Almaty Financial Center officially announced that it would merge its efforts to create an effective equity market with the KSE, thereby signaling that there will be only one stock exchange in Kazakhstan in the foreseeable future.) The Financial Supervision Agency (FSA), Kazakhstan's main financial regulator, has broad authority over the banking and insurance

sectors, as well as the stock market. The FSA is financed from the National Bank's budget and subordinated to the President of Kazakhstan.

In 1998, the government introduced an accumulation pension system that requires all employed persons to contribute 10% of their salary to accumulation pension funds. As of November 2006, the 14 funds (13 private and one state-owned) operating in Kazakhstan held approximately \$9.6 billion in assets. Asset management companies invest the contributions on behalf of the pension funds. While the government provides specific restrictions on how the pension funds may invest, these restrictions were relaxed in 2006, allowing some involvement in Kazakhstani equities. Still, the pension assets must be invested primarily in specific categories of instruments, such as government bonds and A-listed securities. The largest concentration of investments is in dollar-denominated Kazakhstani Eurobonds. Custodian banks hold pension assets. The government plans to sell some shares of state enterprises on the national stock market, partly to provide a more profitable alternative vehicle for the investment of pension fund assets.

There appear to be no "cross-shareholding" or "stable shareholder" arrangements used to restrict foreign investment in private firms through mergers and acquisitions. Joint stock companies may not cross-hold more than 25% of each other's stock unless they have an exemption codified by law and may not exercise more than 25% of the votes in a cross-held joint stock company. Kazakhstani law recognizes companies as "related" if one company or legal entity holds more than 20% of the shares of another. However, the owning company may not vote more than 25% of the total shares at the general meeting of shareholders of the related company. The general meeting must approve various corporate actions, such as mergers and acquisitions. This rule applies to all persons, domestic or foreign.

There have been very few hostile takeovers in Kazakhstan, primarily because there are few publicly traded firms. Defensive measures are not targeted toward foreign investors in particular. Current legislation provides a legal framework for takeovers. The Civil Code requires a company that has purchased a 20% share in another company to publish information about the purchase.

The mutual investment fund industry remains small but is growing rapidly. As of October, 1 2007, total assets of the mutual investment funds amounted to \$1.16 billion, representing a 302% increase when compared to October 2006 figures. Despite a reduction from 37.1% in October 2006 to 15.77% in October 2007, Kazakhstani corporate securities remain a significant share of the consolidated mutual fund investment portfolio.

The 1998 Law on Joint Stock Companies provides the basis for the regulation of open and closed-type joint stock companies. It also contains clauses to protect investors in often-abused circumstances, such as:

- issuance of additional shares;
- maintenance of charter capital and restrictions on payments of dividends;
- re-purchase by a company of its own shares;
- debt-to-equity conversions;
- fiduciary duties imposed on company officers;
- proxy votes;
- independent audit; and
- the determination of asset values during the sale of company property.

The Law on Joint Stock Companies also regulates tender offers for stock of open joint stock companies by requiring the purchaser to notify the Financial Supervision Agency and the target company of their intention to purchase 30% or more of the target company and, after such purchase, to make an offer to all remaining shareholders to purchase their shares at the average price during the last six months before the purchase.

There are no laws or regulations specifically authorizing firms to adopt articles of incorporation or associations that limit or prohibit foreign investments. The Law on Joint Stock Companies, however, allows charter limits on the number of shares or votes that one shareholder may have.

In March 2007, the Government accepted amendments to legislation regarding the protection of minority stockholders' interests. The enactment of this law was prompted by numerous violations of minority stockholders' interests. In addition, this step was driven by the Government's intention to promote the development of stock exchange.

Standards, including sanitary and phyto-sanitary standards, are

promulgated solely by the Committee for Technical Regulation and Metrology (Gosstandard). Proposals for adoption, amendment, or abolishment of state standards are normally prepared by technical committees constituted by Gosstandard, and may include producers,

ASTANA 00000146 011 OF 016

scientific and engineering associations, and technical experts. Foreign participation in the standardization process is regulated by international multilateral and bilateral agreements.

#### Political Violence

---

There have been no incidents of politically-motivated violence against foreign investment projects. Kazakhstan has been stable since independence. Politically-motivated civil disturbances remain exceptionally rare. Kazakhstan has good relations with its neighbors. The government continues to express concern over the security of its borders with Kyrgyzstan and Uzbekistan, which it views as vulnerable to penetration by extremist groups.

Kazakhstan's 2007 parliamentary elections took place without significant violence or unrest. President Nazarbayev's Nur Otan party won every seat in the lower house of parliament with an overwhelming majority of the votes. In its assessment, the OSCE noted that the election did not meet a number of OSCE commitments and international standards for democratic elections. Although opposition groups denounced the election as fraudulent, there were no significant demonstrations against the announced results. The next parliamentary election is scheduled to take place in 2012. The February 2006 murders of a prominent opposition politician and his two associates were perceived by opposition parties as politically motivated. The former chief of staff of the Senate was convicted in August 2006 of having ordered the murders; prosecutors charged that he was motivated by personal animosity.

#### Corruption

---

Although the Kazakhstani Criminal Code contains special penalties for accepting and giving bribes, corruption is prevalent throughout Kazakhstan. The Ministry of Interior, the Financial Police, the Disciplinary State Service Commission, and the Committee for National Security (KNB) are responsible for combating corruption. The government has taken some measures to address corruption and increased its attention to the problem through educational and public awareness efforts. President Nazarbayev publicly deplored corruption and encouraged media to report about it. Some lower and middle-ranking officials and minor political figures have been penalized on corruption charges.

Transparency International has a national chapter in Kazakhstan. The government has signed on to the Extractive Industries Transparency Initiative (EITI).

U.S. firms have cited corruption as a significant obstacle to investment. Law enforcement agencies have on occasion pressured foreign investors perceived to be uncooperative with the government. The government and local business entities are widely aware of the legal restrictions placed on U.S. business abroad (i.e., the Foreign Corrupt Practices Act).

In 2003 in the United States two American citizens were charged with violating the Foreign Corrupt Practices Act in a case that received significant international media attention. The two allegedly channeled tens of millions of dollars in bribes to two senior Kazakhstani officials during the 1990's in order to facilitate oil deals for American companies. One is currently serving a jail term. The second defendant, James Giffen, was indicted in 2003 and is awaiting trial in the United States.

#### Bilateral Investment Agreements

---

The United States-Kazakhstan Bilateral Investment Treaty came into force in 1994. In 1992, the United States and Kazakhstan signed an Investment Incentive Agreement.

In 1996, the Treaty on the Avoidance of Double Taxation between the United States and Kazakhstan came into force. However, an ongoing dispute with a U.S. investor raises concerns with the government's tax treaty compliance. Since independence, Kazakhstan has ratified treaties on the avoidance of double taxation with 41 countries. Kazakhstan has bilateral investment agreements in force with forty

countries, including the United States, Great Britain, Germany, France, Austria, Russia, Korea, Iran, China, and Turkey.

#### OPIC and Other Investment Insurance Programs

---

The Overseas Private Investment Corporation (OPIC), an independent U.S. Government agency that provides project financing, political risk insurance, and a variety of investor services, has been active in Kazakhstan since 1994. OPIC is seeking commercially viable projects in the Kazakhstani private sector. OPIC offers a full range of investment insurance and debt/equity stakes.

Kazakhstan is a member of the Multilateral Investment Guarantee Agency (MIGA).

#### Labor

---

The 1999 Labor Law and the Constitution guarantee basic workers' rights, including the right to organize and the right to strike.

ASTANA 00000146 012 OF 016

Teachers, miners and workers at a variety of enterprises have conducted occasional strikes for generally short periods during the past several years. In September 2006 the death of 41 miners in an explosion at Mittal Steel Temirtau's "Lenin" coal mine triggered an unprecedented wave of strikes. Mittal's striking coal miners were joined by steel workers which shut down operations at each of the eight coal mines owned by the company for a week. The strike ended after Mittal agreed to substantial raises. Subsequently, two U.S. companies operating coal mines in Kazakhstan raised wages 25-30% in order to avert threatened strikes.

The 1996 Law on Labor Disputes and Strikes lays out the procedure for resolving disputes. However, the law also restricts strikes by requiring, *inter alia*, that a peaceful attempt at a solution first be made, that two-thirds of the labor collective must approve the strike, and that the employer must be warned 15 days in advance in writing. In addition, strikes for political purposes are forbidden.

A separate 1992 Law on Collective Bargaining Agreements sets out the basic framework for concluding such agreements. There are instances of unions successfully negotiating collective bargaining agreements with management.

In May 2007, Kazakhstan passed a new Labor Code, encompassing all the preceding legislation under a single umbrella. Key provisions of all the previous labor laws were retained. The Labor Code extended minimum mandatory vacation time from 18 to 24 days, provided an outline of labor unions' and labor representatives' rights, and toughened rules governing the dissolution of labor contracts.

The 1993 Law on Professional Labor Unions provides a legal guarantee against limitations of labor. It also grants socio-economic, political and personal rights and freedoms as a result of membership in a union and prohibits the denial of employment, the denial of promotion or termination of employment on the basis of such membership. Kazakhstan also joined the International Labor Organization (ILO) in 1993. As of January 2007, Kazakhstan has ratified 16 ILO conventions, including those pertaining to minimum employment age, forced labor, discrimination in employment, equal remuneration, and collective bargaining.

Kazakhstan's economy has grown steadily in the last five years. Preliminary 2007 GDP growth is estimated at 8.7%. (The highest year-on-year rate was 13.5% in 2001.) Although incomes and consumer spending have risen across the board, in the 3rd quarter 2007 the minimum subsistence wage is still only \$83.. per month; with 13.8% of the population receiving income below that level. Starting on January 1, 2008, the minimum pension will be \$65.45 per month. By government estimates, in the 3rd quarter of 2007 unemployment was 7%.

Kazakhstan has an educated and technically competent workforce. However, the demand for specialized skilled labor created by the simultaneous development of several major oil fields in western Kazakhstan has exceeded locally available supply. Foreign investors increasingly cite a lack of skilled workers and technical professionals. Management expertise and marketing skills are also in short supply. Many large investors rely on foreign workers, particularly from Turkey, to fill the vacuum. In turn, the GOK has made it a priority to ensure that Kazakhstani citizens are

well-represented on foreign enterprise workforces, and is particularly keen to see Kazakhstanis hired into the managerial and executive ranks of those enterprises. In late 2006, the government discussed measures limiting the inflow of foreign workers, particularly unskilled, and pressuring large foreign investors to hire and train Kazakhstanis. Since 2001, the quota system has required employers to search for local workers prior to the issuance of work permits for foreigners (see section A.1.). U.S. companies are strongly advised to contact locally-based law and accounting firms, as well as the U.S. Commercial Service in Almaty, for the latest information on work permits.

Employers' reliance on foreign labor in the face of persistent poverty in rural Kazakhstan became a political issue in 2006 and 2007. The debate revolved around the underlying causes of some violent incidents between Kazakhstani and foreign workers. The tension was epitomized by a major October 2006 brawl that involved over 400 workers. Policymakers often point to disparities in wages and working conditions between Kazakhstani and foreign workers. Employers retort that the domestic lack of skilled labor frequently necessitates management of Kazakhstani laborers by foreigners.

#### Foreign - Trade Zones/Free Ports

---

A system of tax preferences exists for enterprises engaging in prescribed economic activities in the so-called "special economic zones." As of December 2007, four such zones had been established: the "New Administrative Center" in Astana, the Seaport of Aktau, the Alatau Information Technology Park (near Almaty), and the Ontustik Cotton Center in south Kazakhstan.). In addition, a separate preferential tax system exists for enterprises manufacturing high value-added goods, regardless of location.

In the second half of 2006, the government took steps toward

ASTANA 00000146 013 OF 016

establishing the Almaty Financial Center, a legal and institutional framework aimed at making Almaty the financial capital of Central Asia. The plans, which are still in very early stages of implementation, include tax privileges for major participants in the financial marketplace: investors, broker-dealers, and issuing corporations. The legal framework for the Almaty Financial Center includes a specialized court with jurisdiction over civil disputes between the Financial Center's participants

#### Foreign Direct Investment (FDI) Statistics

---

##### Annual Gross Foreign Direct Investment Flows by Country of Origin (Millions of Dollars; nominal)

1993-2005	2006	2007 (1st half)	Total
USA	11,841.2	1,694.7	802.2 14,338.1
UK	4,378.7	852.5	255.2 5,486.4
South Korea	1,880.9	248.6	116.6 2,246.1
Italy	2,468.3	376.1	212.6 3,057
Canada	1,481.2	437.1	273 2,191.3
Switzerland	2,021.5	234.6	367.9 2,624
Netherlands	4,940.1	2,877.3	1,170.6 8,988
China	1,680.5	359.5	171.6 2,211.6
Turkey	906.9	92.9	141.9 1,141.7
Russia	1211.1	490.9	219.0 1,921
Japan	1005.1	342.6	169.7 1,517.4
Others	6,970	2,559.9	3,033.6 12,563.5
TOTAL	40785.5	10,566.7	6,933.9 58,286.1

Source: National Bank of Kazakhstan

##### Annual Gross Foreign Direct Investment Flows by Sector (Millions of dollars; nominal)

1993-2005 2006 2007 (1st half) Total

AGRICULTURE, 15.7 37.3 1.3 54.3

HUNTING AND

FORESTRY

MINING AND 22,286.2 2,323.1 2,126.4 26,735.7  
QUARRYING

mining of coal 39.8 0.0 0.0 39.8  
and lignite,

extraction  
of peat

extraction of 20,406.3 2,003.4 1886.3 24,296  
crude  
petroleum  
and natural  
gas

mining of 146.5 162.4 83.7 392.6  
uranium and  
thorium ores

mining of 884.6 149.1 156.2 1,189.9  
metal ores

other mining  
and quarrying 50.9 8.3 0.1 55.5 114.8

MANUFACTURING 5,066.4 644.4 326.1 6,036.9

including but  
not limited  
manufacture of  
food products, 644.7 51.9 19.8 716.4  
beverage and  
tobacco products

manufacture of  
coke, refined  
petroleum  
products 508.2 -15.8 -192.8 299.6  
and nuclear  
fuel

manufacture of 139.8 17.9 7.9 165.6  
chemicals  
and chemical  
products

manufacture of 32.9 7.9 12.3 53.1  
rubber and  
plastics  
products

manufacture of 85.9 26.2 13 125.1

ASTANA 00000146 014 OF 016

other  
non-metallic  
mineral products

manufacture 3,068.7 423.9 385.8 3,878.4  
of basic metals:  
manufactures 405.7 1.4 1.6 408.7  
of ferrous  
metals

manufacture of 2,649.3 419 381 3,449.3  
basic precious  
and non-ferrous  
metals

manufacture of 13.9 3.4 3.3 20.6  
fabricated  
metal products  
except  
machinery  
and equipment

manufacture 21.4 4.2 0.1 25.7  
of machinery  
and equipment

manufacture 431.1 39.7 20.4 491.2  
of electric

and computing  
machinery

manufacture of 11.8 72.4 53.9 138.1  
transport  
equipment

manufacture, 5.0 0.7 1.6 7.3  
n.e.c

ELECTRICITY, 699.2 26.6 5.3 731.1  
GAS AND WATER  
SUPPLY

CONSTRUCTION 416.1 378.4 243.8 1,038.3

WHOLESALE AND 1,122.8 760.9 618.7 2,502.4

RETAIL TRADE,  
REPAIR OF  
MOTOR VEHICLES,  
MOTORCYCLES  
AND PERSONAL AND  
HOUSEHOLD GOODS

HOTELS AND 115.3 10.2 43.5 169  
RESTAURANTS

TRANSPORT 690.6 301.3 48.5 1,040.4

STORAGE AND  
COMMUNICATION  
land transport 378.8 23.6 20.6 423

including  
transport  
via pipelines 360.3 19.4 20.6 400.3

water -12.2 4.1 0.6 -7.5  
transport

air transport 24.9 3.2 1.1 29.2

supporting 152.3 187.4 29.5 369.2  
transport  
activities

post and 146.8 83 -3.2 226.6  
telecommunication

including 145 81.1 -4.0 222.1  
telecommunication

FINANCIAL 494.2 375 201.6 1070.8  
ACTIVITY

REAL ESTATE, 9,223.3 5,610.1 3,271 18104.4  
RENTING  
AND BUSINESS  
ACTIVITIES

Including

ASTANA 00000146 015 OF 016

but not limited  
real estate  
activities 105.1 29.1 30.6 164.8

legal,  
accounting, book-  
keeping and  
auditing 143.2 -22.5 49.6 170.3  
activities,  
tax consultancy,  
market research,  
business and  
management  
consultancy

geological 8,739.5 5,487.5 3,167.6 17,394.6  
exploration and  
prospecting  
activities

EDUCATION, 295.3 99.5 47.5 442.3  
HEALTH AND  
SOCIAL WORK

ACTIVITIES, 360.8 0.0 0.0 360.8  
N.E.C.

TOTAL 40,785.5 10,566.7 6,933.9 58 286.1  
Source: National Bank of Kazakhstan

FDI as a Percentage of GDP  
2005 2006 2007(1st half)  
11.58% 13.05% 15.5%  
Source: National Bank of Kazakhstan

Kazakhstani Direct Investment Outflows  
Millions of US dollars, nominal  
Country of  
Destination 2004-2005 2006 2007(1st half) Total  
Austria 0.4 0.3 0.1 0.8  
Azerbaijan 0.0 3.2 3.4 6.6  
Armenia 2.8 0.7 0.0 3.5  
Afghanistan 0.1 -0.1 0.0 0.0  
Byelorussia 3.4 1.5 0.1 5.1  
Bulgaria 0.0 0.0 0.7 0.7  
Dominican Republic 0.0 10.0 0.0 10.0  
France 0.0 0.0 3.0 3.0  
Great Britain 15.5 -3.7 82.1 93.9  
Virgin Islands 43.225.4 78.9 147.5  
Germany 217.3 0.2 10.4 227.9  
Georgia 1.9 66.0 9.2 77.1  
Hong Kong 0.0 0.0 60.0 60.0  
Israel 0.0 0.4 0.0 0.4  
India 0.0 0.1 0.1 0.2  
Iran 0.0 0.0 0.3 0.3  
Italy 0.1 0.0 0.0 0.1  
Canada 5.8 37.3 0.0 43.1  
Cayman Islands 0.0 0.5 0.0 0.5  
Cyprus 0.0 0.8 88.8 89.6  
China 6.0 7.1 34.5 47.6  
Kyrgyzstan 57.4 102.8 55.4 215.6  
Latvia 1.9 0.0 0.3 2.2  
Lithuania 0.0 -5.0 0.0 -5.0  
Luxemburg 0.0 9.5 1.7 11.2  
Malaysia 0.0 0.8 0.7 1.5  
Marshall Islands 0.0 0.0 96.0 96.0  
Isle of Man 6.6 0.0 0.0 6.6  
Mongolia 0.1 0.0 0.0 0.1  
Netherlands 17.5 639.4 17.6 674.5  
Nigeria 0.0 0.0 0.1 0.1  
Arab Emirates 0.0 1.4 37.7 39.1  
Russian Federation 127.2 183.3 198.1 508.6  
Seychelles 28.3 0.0 0.0 28.3  
Singapore 0.0 2.4 61.7 64.1  
South Korea 0.0 0.0 1.1 1.1  
Spain 0.0 0.0 1.0 1.0  
USA 8.1 3.2 0.4 11.7  
Tajikistan 0.1 12.3 10.7 23.1  
Thailand 0.0 0.0 0.2 0.2  
Turkey 41.2 3.9 318.3 363.4  
Uzbekistan 8.0 86.0 14.3 108.3  
Ukraine 10.1 2.0 8.7 20.8  
Check Republic -4.00.2 2.0 -1.8  
Switzerland 127.1 77.1 157.5 361.7  
Estonia 0.0 0.0 0.0 0.0  
Other  
Countries 6.5 4.0 0.7 11.2  
TOTAL 732.6 1,273.0 1,356 3,361.6  
Source: National Bank of Kazakhstan

Investments as of 2007

---

The oil and gas sector accounts for approximately 71.5% of the \$58.3 billion that has been invested in Kazakhstan, with U.S. firms consistently ranking as the largest foreign investors. U.S. firms with noteworthy investment in Kazakhstan's petroleum sector include: Chevron, ExxonMobil, and ConocoPhillips. Other major foreign investors in this sector include: LucArco, Agip, Shell, Inpex, Eni, Total, British Gas, Lukoil, Mitsubishi and the Chinese National Petroleum Corporation (CNPC).

Other major US investments include: AES (over \$200 million in power generation), Access Industries (coal mining), Philip Morris (over \$320 million in tobacco processing), and General Electric Transportation (locomotive modernization facility). Non-petroleum foreign investors include Mittal and BAE Systems.

ORDWAY